



U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536

[Redacted]

File: [Redacted] Office: Nebraska Service Center

Date: **10 10 2000**

IN RE: Applicant: [Redacted]

Application: Application for Travel Document Pursuant to Section 223 of the Immigration and Nationality Act, 8 U.S.C. 1203

denying...  
prevent clearly...  
invasion of personal privacy

IN BEHALF OF APPLICANT: [Redacted]

*Public Copy*

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER;  
EXAMINATIONS

*[Handwritten signature]*

Ferrance M. O'Reilly, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Nebraska Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Canada, who seeks to obtain a travel document under section 223 of the Immigration and Nationality Act (the Act), 8 U.S.C. 1203. The director denied the application for a reentry permit after determining that the application was filed after the applicant had departed the United States.

On appeal, the applicant states that the organization who filed the INS form in his behalf inadvertently sent the wrong amount of money to cover the filing fee. The application was not accepted by the Service and by the time the application was resent he had departed the United States. He states that he has been penalized for an error that he did not make and requests the Service to take into consideration that he attempted to properly file the application prior to his departure.

8 C.F.R. 103.2(a)(7)(i) provides that an application received in a Service office shall be stamped to show the time and date of actual receipt and shall be regarded as filed when so stamped, if it is properly signed and executed and the required fee is attached or fee waiver is granted. The Application for Travel Document (Form I-131) was properly filed with the Service on January 12, 1998. Form I-131 reflects the applicant's intended date of departure as February 11, 1997. The record contains a copy of the applicant's travel itinerary which shows his date of departure as January 20, 1997. Therefore, the applicant has not established that he was in the United States, as required, at the time this application was filed with the Service.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. 1361. The applicant has not met that burden.

**ORDER:** The appeal is denied.